



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CWA/168406

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 02, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance (MA), a telephonic hearing was held on January 07, 2016, at Racine, Wisconsin. The matter was held open 49 days at petitioner's request to allow her the opportunity to submit written reply to the agency's exhibits, which was not received.

The issue for determination is whether the IRIS agency correctly reduced petitioner's Supportive Home Care (SHC) hours from 120 hours/month to 24 hours/month effective September 9, 2015.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Nicole Friesema, IRIS Consultant Supervisor

TMG  
1 S. Pinckney St.  
Suite 320  
Madison, WI 53703

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County and is a participant in the IRIS program. She lives at home with her fiancé who is her live-in caregiver.
2. Petitioner's Individual Support and Service Plan (ISSP) includes Self Directed Personal Care (SDPC) services in the amount of 134 hours per month. See Exhibit N1.
3. In July 2015 the petitioner underwent an annual review for IRIS. The IRIS agency completed a SHC Hours Assessment in order to determine the number of SHC hours that petitioner needed. The Assessment showed that petitioner required 17.75 SHC hours/month. The IRIS agency also completed a Caregiver Daily Task Schedule and determined that petitioner required a total of 24 hours/month of SHC.
4. On August 25, 2015 the IRIS agency issued a notice to petitioner stating that her SHC hours would be reduced effective September 9, 2015 to 24 hours/month.

## DISCUSSION

The IRIS program was developed pursuant to a Medical Assistance waiver obtained by the State of Wisconsin, pursuant to section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. It is a self-directed care program. The federal government has promulgated 42 C.F.R. §441.450 - .484 to provide general guidance for this program. The IRIS policy manual can be found online at <https://www.dhs.wisconsin.gov/publications/p0/p00708.pdf>. One of the requirements for the IRIS program is that the Department's agent must assess the participant's needs and preferences (including health status) as a condition of IRIS participation. *Id.*, §441.466. The Department's agent must also develop a service plan based on the assessed needs and must be reviewed at least annually. *Id.* §441.468. Further, "all of the State's applicable policies and procedures associated with service plan development must be carried out ...". *Id.*

As part of petitioner's annual review, the IRIS agency completed a SHC Hours Assessment using the Tool the agency created to determine the need and time the participant needs for those cares. See Exhibit E1. SHC services are defined in Exhibit G1; *IRIS Service Definition Manual*, available online at <https://www.dhs.wisconsin.gov/publications/p00708b.pdf>. The SHC Tool determined a need for 17.75 hours per month for SHC. Of the 17.75 hours, it found petitioner required SHC services for housekeeping, laundry, changing bed linens, filling prescriptions/ordering supplies/making medical appointments, attending medical appointments, and money management. The agency also completed a Caregiver Daily Task Schedule and determined that petitioner required more hours for SHC (laundry and cleaning) due to petitioner's incontinence issues, and therefore determined that a total of 24 hours/month of SHC was needed. See Exhibit F1; *see also* Exhibit H1.

Petitioner also receives self-directed personal care (SDPC) services through Medicaid in the amount of 134 hours per month. See Exhibit N1. Personal care services include assistance with bathing, transfers, grooming, mobility, laundry, dressing, toileting, light cleaning in essential areas of the home used during personal care service activities, meal preparation, food purchasing and meal serving, and accompanying the recipient to obtain medical diagnosis and treatment. See Wis. Adm. Code §DHS 107.112(1)(b). Thus, as explained at hearing, there is some overlap of services between SHC and PC. The agency determined that based upon the assessment of petitioner's needs, the total amount of SHC and PC allowed – 158 hours/month – was sufficient to meet petitioner's needs. Further, because IRIS policy provides that services available through the Medicaid (MA) State Plan are excluded, the IRIS agency contends that it could not award any additional SHC because it would be duplicative of the SDPC she is receiving through MA. See Exhibit G1, p.G3.

Petitioner's questions at hearing largely related to her confusion about how the hours for SHC and SDPC were awarded and how they can be separate authorizations for the same tasks – cleaning and meal preparation. As explained at hearing, the SDPC hours may be used for cleaning due to incontinence issues (approximately 41.3 hours per month) AND the SHC hours may be used for cleaning (approximately 10.5 hours per month). The SDPC hours may also be used for meal preparation. Exhibit II, p.13. SHC does not cover meal preparation when the participant lives with her caregiver, as petitioner does, because the IRIS program is meant to keep participants living in the community where natural supports are available to complement the services the program provides.

In sum, I find that the agency has met its burden to show that it correctly determined the amount of monthly SHC (24 hours) for petitioner. Petitioner's billing shows that her SDPC hours are being used at the higher level since they were increased, presumably to cover those SHC-like services she requires. Petitioner can always request additional hours if the hours she is receiving through SHC or SDPC are inadequate to cover all her needs.

### **CONCLUSIONS OF LAW**

The IRIS agency correctly reduced petitioner's Supportive Home Care (SHC) hours from 120 hours/month to 24 hours/month effective September 9, 2015.

**THEREFORE, it is**

**ORDERED**

The petition for review herein is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 14th day of March, 2016

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 14, 2016.

Bureau of Long-Term Support